

STATINTL

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Washington, October 28, 1947.  
Respectfully trans. ced, for information, to  
Central  
Intelligence Agency

H. F. Arthur Schoenfeld

Department of State  
Washington

In reply refer to  
Le/A

October 24, 1947

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My dear Mr. Schoenfeld:

The receipt is acknowledged of your letter of  
October 1, 1947, in which you ask the following question:

"Am I, as a retired Officer of the American  
Foreign Service who is entitled to receive an  
annuity following my retirement from the Foreign  
Service under the provisions of Section 636 of the  
Foreign Service Act of 1946, also entitled to re-  
ceive compensation, either as salary or as per diem  
or otherwise, from the United States Government upon  
my employment by the Government in a capacity other  
than that of a Foreign Service Officer on active duty?"

In the case of William W. Brunswick v. The United  
States (90 Ct. Cls. 285) decided January 8, 1940, the  
court held that a Foreign Service Officer retired for  
disability and receiving an annuity may be employed by  
the Executive branch of the Government and receive salary  
for such employment simultaneously with the receipt of the  
annuity. Although the Comptroller General did not appeal  
the Brunswick case it has adopted the position that this  
decision is binding only in this particular case, and is  
not controlling in other cases of retirement on an annuity.  
Acting in accordance with this theory of law, the Comptroller  
General has recently ordered the suspension of annuities of  
all retired Foreign Service Officers who are presently  
employed by the Government.

The Department of State is, of course, bound to comply  
with the Comptroller General's interpretation of the law.

Sincerely yours,

For the Secretary of State;

Belton O. Bryan  
Assistant Legal Adviser

The Honorable  
H. F. Arthur Schoenfeld,  
care of Mail Room,  
Department of State.